

REMARKS

The Examiner has again rejected Claims 1, 8, 13, 14, 17, 20, and 25 under 35 U.S.C. 103(a) as being upatentable over Atkinson et al. (U.S. Patent No. 6,367,012B1). Applicant respectfully disagrees with such rejection.

In the Examiner's response to arguments, the Examiner responds as follows to applicant's claimed "monitoring calls to applications resident on the handheld computer" and "at least temporarily preventing an action requested by said call from being executed if the identified code does not correspond to a code associated with data said action is to be performed upon" (See Claims 1 and 17).

"Atkinson et al. (abstract) discloses embedding of a certification within an executable file so as to ensure the authenticity of that file. When the file is received, the embedded code is authenticated by the client. Hence monitoring of the calls (i.e. requests sent to the client) is performed. If the code received at the client is positively authenticated, the requested action can be performed. If authentication fails, the requested action is prevented (Atkinson et al, column 2, lines 44-52; column 3, lines 14-24)."

Applicant respectfully disagrees with this rejection. As noted above, the Examiner equates applicant's claimed "identified code" with the "certification within an executable file." Further, Examiner equates applicant's claimed "monitoring of calls" to Atkinson's "requests sent to the client." It appears that the Examiner has dismissed applicant's claimed "identifying a code associated with a program initiating said call," in combination with the limitations noted above.

Specifically, such reference merely authenticates the certification within an executable file, and does not identify a code associated with a program initiating said call for the purpose of attempting to match such identified code with code associated with data an action is to be performed upon, as claimed. Thus, applicant's claims define a technique vastly departed from a simply authentication of an incoming executable file, by attempting a match between two specific sets of code, namely a first code associated with a program initiating a call and a second code

associated with data an action is to be performed upon. Similar, but not identical, arguments can be made with respect to Claims 13 and 20.

Also in the Examiner's response to arguments, the Examiner responds as follows to applicant's claimed "wherein at least one of the applications is identified as a trusted application; wherein the trusted application is not prevented from performing actions even if the creator code associated with the trusted application does not match the creator code associated with the data said action is to be performed upon" (see this and similar, but not identical, language in each of the independent claims).

"Atkinson discloses certain applications (i.e. downloaded code or executable file) whose integrity is trusted because the identity of the publisher rather than the actual code is authenticated. Hence these applications suffice as trusted applications."

Again, applicant respectfully disagrees, as it appears that the Examiner has not considered the full weight of applicant's claims. It appears that the Examiner relies on Atkinson's authenticated applications as "trusted applications." With this assumption, it is impossible for Atkinson to meet applicant's claimed technique, wherein the trusted application is not prevented from performing actions even if the creator code associated with the trusted application does not match the creator code associated with the data said action is to be performed upon.

In particular, the Examiner previously attempted to meet applicant's "match ..." limitations with Atkinson's authentication process. However, in the context of Atkinson's authentication process, a failure of any sort of match during such authentication process would result in an untrusted application, in which case it would simply not make sense (in the context of Atkinson) to not prevent such application from performing actions, as claimed by applicant. It is clear that Atkinson *teaches away* from applicant's claimed invention in this regard, since only applicant's claimed invention allows an application that fails the matching technique to nevertheless be not prevented from performing actions, as claimed.

It is further noted that the Examiner has apparently only addressed applicant's claimed "creator code" in a cursory manner in the context of Atkinson. Atkinson simply does not meet applicant's claimed "creator code," which is specifically used in a unique manner, as claimed.

Despite these continued deficiencies in the Examiner's arguments and in the spirit of expediting the prosecution of the present application, applicant has amended each of the independent claims to include substantially all of the subject matter of Claim 21. Since such claim has already been considered in dependent form, applicant contends that such amendment would not require a new search and/or consideration.

The Examiner has rejected Claim 21 under 35 U.S.C. 103(a) as being unpatentable over Atkinson et al. (U.S. Patent No. 6,367,012B1), in view of Szymanski et al. (U.S. Patent No. 5,574,903B1). Applicant respectfully disagrees with such rejection.

Specifically, the Examiner relies on the following excerpt from Szymanski to meet applicant's claimed "wherein the creator code is a 4-byte value used to tie together a plurality of databases related to an application, at least one database is maintained on the handheld computer using a first creator code that is the same as a second creator code associated with a plurality of patches, the at least one database contains a list of a plurality of the creator codes resident on the handheld computer, and at least one creator code is used to prevent a program from modifying one of the databases with a different creator code" (see former Claim 21, now substantially incorporated into each of the independent claims).

"In one embodiment, files are collections of forks and attributes which can be copied, moved, deleted, and renamed atomically in a file system. Every file has a name (a sequence of characters), a single directory which serves as its parent directory, and a specific volume on which its data is stored. Files may also be identified by a value which is unique within a volume.

According to one embodiment, a file can have any number of forks, and each fork in a file is distinguished by a four byte code. Every file has a name, a type code, a creator code, and a set of privileges." (see col. 7, lines 29-39)

Applicant respectfully disagrees with this assertion. The mere mention of a creator code (out of the context of the remaining claim elements) in no way meets applicant's claimed "wherein the creator code is a 4-byte value used to tie together a plurality of databases related to an application, at least one database is maintained on the handheld computer using a first creator code that is the same as a second creator code associated with a plurality of patches, the at least one database contains a list of a plurality of the creator codes resident on the handheld computer, and at least one creator code is used to prevent a program from modifying one of the databases with a different creator code" (emphasis added).

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all the claim limitations. A notice of allowance or a specific prior art showing of each of the foregoing claimed features, in combination with the remaining claim elements, is respectfully requested.

All of the independent claims are deemed allowable for the reasons set forth hereinabove. By virtue of their dependence on such claims, the dependent claims are further deemed allowable. Reconsideration is respectfully requested.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. For payment of any fees due in connection

with the filing of this paper, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1351 (Order No. NAI1P137\_00.123.01).

Respectfully submitted,

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